Luxembourg, March 02nd, 2020

# FEEDBACK NOTE ON THE DRAFT ETS STATE AID GUIDELINES

FEDIL - The Voice of Luxembourg's Industry represents over 600 companies from the industry sector. FEDIL welcomes the possibility to contribute in improving the EU Emissions Trading System's state aid guidelines through a public consultation and wishes to express its feedback by this paper on draft ETS State Aid Guidelines as published on January 14th, 2020.

## 1 AID INTENSITY AND SCOPE

*CO2 Emission factors*

While for most Member State (MS), the definition of dedicated geographic areas for emission factors or even MS-specific national emission factors may increase the accuracy of its electricity's carbon footprint, this is not the case for Luxembourg. Luxembourg's electricity production covers less than 20% of its consumption. The power consumed in Luxembourg's industry, thus, has a carbon footprint that is majorly determined by the electricity it imports from its neighbourhood countries. Luxembourg's electricity's carbon content is more accurately represented by sticking to the as-is emission factors according to the Central-Western Europe region. Luxembourg's industrial community thus urges the Commission not to apply national emission factors for Luxembourg. In terms of resulting aid intensity, it would put Luxembourg into a position of competitive disadvantage.

*Aid's upper limit*

The draft text proposes a maximum aid intensity of 75% knowing that for some sectors, it will not be enough to ensure adequate protection again the risk of carbon leakage. Considering further that depending on the Member State (MS), the economic and social impact of a given sector on that MS's economy widely varies from MS to MS, it is essential that MSs can decide by themselves about the upper limit of indirect cost compensation. A one-size-fits-all approach as drafted by the text seems to be little suitable.

Moreover, in Phase 4 of EU ETS, rising $CO_2$ prices will increasingly incentivise the industry to convert $CO_2$ emitting processes into using electricity. In other words, the energy transition will increase the industry's dependence on affordable electricity in the future. It is thus essential that affordable electricity represents a viable alternative source of energy to support the industry's efforts to substitute $CO_2$ emitting processes.

An adequate level of compensation, that can be adapted via the aid intensity by a MS represents a compelling factor in preserving electricity as that alternative source of energy. This is especially true when considering that it is hard to predict the evolution of the $CO_2$ price <u>and</u> that electric power will represent an increasing cost factor for the industry.

It is thus essential that the aid intensity preserves a level of flexibility, via the MS's own decision for compensation without a predefined upper limit.

*Scope*

In the same way, as EU ETS impacts electricity prices, prices for industrial gases such as N2, O2, Ar, H2 rise as they are produced using electricity. Indirect ETS cost on those products should thus also be included in the scope of the state aid compensations, or the NACE 2011 should be made an eligible sector.

## 2 CONDITIONALITY

For companies exposed to indirect costs of EU ETS, continuous energy efficiency optimisation efforts represent a prerequisite to maintain global competitiveness. Indirect cost compensation must be considered a protection to level-off the additional indirect costs by EU ETS.

The draft text requires the Member States to monitor beneficiaries of the aids to (a) do energy efficiency audits, (b) reduce the carbon footprint of their electricity consumption, (c) invest at least 80% of the aid amount in projects that lead emission reductions of the installation.

The three conditions suggested by the draft text make little sense when considering that the present aid has been designed to avoid carbon leakage in energy-intensive industries. These industries are fighting against losing international competitiveness as they face the additional indirect costs of EU ETS.

As a result, concerned industries will try to preserve competitiveness by finding short term cost-cutting options to compensate for the additional costs of EU ETS in their electricity bill. Tying the present aid to the conditions as proposed in the draft text will deprive companies to decide freely about how they can allocate the received compensations most efficiently against losing competitiveness. In other words, those conditions tend to neutralise the aid's initial aim of preventing carbon leakage.

## 3 ELIGIBILITY

The Commission opted for a sector by sector impact assessment approach to determine the list of eligible sectors. The data used for this sectoral assessment refers to the so-called 'sector fiches'. Those fiches are however not publicly available, depriving transparency about how eligibility has been determined. The data used for the sector analysis must be made available to interested parties so that they can understand and then appropriately respond in the spirit of the public consultation. If necessary, the period of the public consultation must be extended to allow all interested parties to respond in full transparency.

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